

STATE LANDS COMMISSION

TRANSCRIPTS

JANUARY 3, 1991

AND

FEBRUARY 6, 1991

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MEETING
STATE LANDS COMMISSION
STATE OF CALIFORNIA

COPY

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ROOM 447
SACRAMENTO, CALIFORNIA

THURSDAY, JANUARY 3, 1991
1:17 P.M.

Nadine J. Parks
Shorthand Reporter

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NATRAVE, CA 94558
TELEPHONE 916 441-1111

MEMBERS PRESENT

Leo McCarthy, Lieutenant Governor, Chair

Gray Davis, Controller, Member

James Dwight, representing the Department of Finance

Staff Present and Participating:

Charles Warren, Executive Officer

James Trout, Assistant Executive Officer

Jack E. Rump, Assistant Chief Counsel

Jan Stevens, Deputy Attorney General

Lance Kiley

Dwight Sanders

Kata Bartoloni

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P R O C E E D I N G S

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CHAIRMAN MC CARTHY: Good afternoon, ladies and gentlemen. Welcome to the meeting of the State Lands Commission.

To my left is Commissioner Dwight representing the Department of Finance. Commissioner Gray Davis will be joining us very shortly. My name is Leo McCarthy.

Without objection, we'll confirm the reading of the minutes of the meeting of December 12th.

I'd like to proceed to the first item on the calendar. Mr. Charles Warren, would you proceed?

EXECUTIVE OFFICER WARREN: Mr. Chairman, members, Item 1 on the calendar today is the consideration by the Commission of a proposal to the Legislature for legislation which would establish a California Rivers Riparian Parkway program within the State Lands Commission.

We have -- I am joined in presenting this calendar item by Dwight Sanders, who is the Chief of our Resources -- Environmental and Resource Planning Division. He is joined by Kata Barceloni, who is Project Director for the State Lands Commission's River Program, who has been the instrument by which this and other calendar items before

1 you has been developed and presented to you.

2 You have also before you a number of folks who
3 are appearing here today to support the program. I believe
4 their names have already been submitted to you. We also
5 have a number of folks who have signed up on attendance
6 sheets to speak on Item 1, all of whom appear to be in
7 favor.

8 And essentially, what staff is proposing to the
9 Commission is its intentions to have introduced legislation
10 which would establish the program of a statewide California
11 Rivers Riparian Parkway program..

12 Copies of the legislation are in your folder
13 Following the legislation itself, and I know is of
14 considerable interest to the Commission, is a list of the
15 projects which staff have identified within the State and
16 which indicate local interest in river parkway programs.
17 Those project descriptions are typified on the map, which
18 we have as an exhibit, to your right, the California
19 River Parkway efforts. There are almost 30 such efforts
20 that we have identified to date. There will certainly be
21 more as this legislation progresses, and particularly if
22 it is enacted.

23 We've also appended to the presentation a five-
24 page summary of what we have identified as potential
25 funding sources. I know this is a matter of considerable

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1 interest. Those funding sources involve existing State
2 and Federal programs. There are potential programs which
3 we know to be under consideration by individual
4 legislators who have heard about the effort and who have,
5 on their own -- who are on their own seeking opportunities
6 to assist in funding.

7 But we are not proposing to be involved in any
8 of those efforts today. We are only presenting to you
9 the program itself.

10 I would, before turning to Mr. Sanders and
11 Ms. Bartoloni for an explanation of the bill, I would like
12 to give you just a little of the history of its
13 development, if I could.

14 As you recall, early in 1989, we had an
15 opportunity to enter into a boundary line agreement with
16 a major developer on the Yolo side of the Sacramento
17 River in the City of West Sacramento. The development
18 project involved was the Lighthouse Marina project. There
19 was some question as to the location of the State boundary
20 line, high water line historically located on the river.

21 In the course of those negotiations, we arrived
22 at an agreement with the upland landowner whereby the
23 State of California would receive littoral corridor of the
24 project for a distance of approximately one mile opposite
25 the City of Sacramento.

1 We also received, as part of the boundary line
2 agreement, title to 124 additional acres upland of the
3 project site, upriver from the project site; 24 to 25
4 acres of which are on the water side of the levee and all
5 such acres riparian; the remaining acres on the landward
6 side of the levee and proximal, if not adjacent, to
7 an existing county park.

8 We also received agreement for the complete
9 revegetation of the one-mile strip of littoral corridor
10 along the river, plus \$200,000 in mitigation money.

11 This agreement is before you as Item 2.
12 Now, based -- anticipating the acquisition of those
13 assets, it occurred to us that perhaps they could be
14 best be used to create a Sacramento River Parkway program.

15 We contacted other State agencies. We
16 contacted the Counties of Sacramento and Yolo, and the
17 Cities of Sacramento and West Sacramento. All were very
18 encouraging and all were very forthcoming and cooperative.

19 A memorandum of understanding between the
20 State Lands Commission and those governments was created
21 and is Item 3 on your calendar today for your approval.

22 With the experience of the settlement behind
23 us and the Sacramento River riparian MOU behind us, staff
24 saw an opportunity to apply similar practices and
25 procedures in other areas of the State. And in exploring

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1 that potential, we are presenting you today with this
2 legislative proposal.

3 And I think, with your permission, I would like
4 to turn to Mr. Sanders and Mrs. Bartoloni for details of
5 the program that we are submitting. Mr. Sanders.

6 MR. SANDERS: Thank you, Warren.

7 Mr. Chairman --

8 CHAIRMAN MC CARTHY: Mr. Sanders.

9 MR. SANDERS: -- members. The program that you
10 have before you provides a process, a program within the
11 State Lands Commission, a collaborative process between
12 the State and local jurisdictions to encourage the planning
13 and implementation of riparian parkway plans.

14 The legislation, as proposed, recognizes the
15 management needs of waterways to include such uses as
16 recreation, environmental protection, commercial
17 development, and flood control. It is a broadbased
18 proposal that provides planning and implementation monies
19 via grants to local jurisdictions for the establishment
20 of river riparian parkways similar to those that
21 Mr. Warren described as illustrated by the map, and
22 also the Sacramento River Riparian Parkway.

23 These riparian parkways, as envisioned, would
24 provide for the preservation, protection, and restoration,
25 of riparian habitat and would provide recreational and

1 access opportunities to the public.

2 As I indicated, it provides a process, a
3 defined process, for cooperation with local and State
4 jurisdictions for applications for the planning and
5 administering grants to the Commission for its review and
6 approval.

7 The Commission would lend its technical
8 expertise to the development of such plans as well as
9 investigate ways of mending or melding together the
10 various assets that the State Lands Commission controls
11 as compared to those controlled by the local
12 jurisdictions, so that we can come up with a composite
13 parkway plan.

14 As indicated by Mr. Warren, it creates a
15 fund from which these grant monies would come -- the
16 Natural Resources Restoration and Development Fund, which
17 would be a repository for some of the existing State and
18 Federal program monies we feel are available and for other
19 monies as designated by the Legislature.

20 I think an important point to make here is the
21 program will proceed so long as funds are available, but
22 it can proceed even if funds do not become available to the
23 extent that we envision. The Sacramento River Riparian
24 Parkway effort I think is a dramatic illustration of what
25 can be done with existing resources and a collaborative

1 effort between the local jurisdictions and the State.

2 With that as a brief overview, I know there are
3 a number of people here who wish to address the Commission
4 on this matter. And Kata and I will, of course, be
5 available to answer questions or provide comments as that
6 testimony proceeds, Mr. Chairman.

7 CHAIRMAN MC CARTHY: Thank you. Do we have
8 any other staff who wish to comment on this?

9 EXECUTIVE OFFICER WARREN: No. We can hear the
10 witnesses now, Mr. Chairman.

11 CHAIRMAN MC CARTHY: All right. Now, I have
12 listed a number of witnesses; some in support, and one or
13 two who -- not on this one. I guess there's nobody who's
14 on it. I have Mr. Michael Paparian of the Sierra Club.
15 Mr. Paparian, would you step forward, please? And then
16 Mr. Corey Brown of the Planning and Conservation League.

17 MR. PAPARIAN: Thank you.

18 CHAIRMAN MC CARTHY: Gentlemen, happy New Year.
19 Welcome. Mr. Paparian, why don't we start with you.

20 MR. PAPARIAN: I'm Mike Paparian, Sierra Club
21 California, State Director.

22 We're pleased to express our strong support
23 for the proposals in this California Rivers Riparian
24 Parkway Act. We're particularly pleased that the State
25 Lands Commission is considering using its authority over

1 riparian lands for such a creative and proactive program.

2 We haven't had sufficient time to really fully
3 consider what kind of helpful suggestions we might offer.
4 I have a couple of initial comments, and I'm sure I'll
5 be working with your staff to flesh out any additional
6 comments we might have.

7 The first comment, and it's rather an obvious
8 one, we should hope that a more specific funding source
9 could be found for the valuable program in the proposal.
10 Problems could definitely arise among both natural allies
11 and enemies of the proposal if, as presently seems to be
12 the case, the idea is for the program to compete with a
13 number of existing revenue sources, such as the
14 Environmental License Plate Fund or Prop 99 monies.

15 There's no sense in having this otherwise
16 very worthy idea be bogged down by battles over funding
17 if some creative ways can be found to deal with the funding
18 issue.

19 The second comment that I have is that we would
20 encourage a regional approach to the riparian parkway
21 planning. Obviously rivers do not neatly follow political
22 boundaries. The habitat conservation values of these
23 plans will be greatly enhanced by specifically encouraging
24 local governments to form joint powers authorities in
25 order to minimize the creation of scattered islands of

1 preserved areas.

2 The legislation should also specifically
3 encourage the incorporation of riparian areas planning
4 into the rest of a jurisdiction's land use planning,
5 perhaps amendment to their general plans and so forth.

6 The Sierra Club's committed to working towards
7 a more regionalized focus for land use and resource
8 planning, which has traditionally been the exclusive
9 province of cities and counties. One of the more
10 deleterious consequences of the traditional fragmented
11 approach to planning has been that the preservation of
12 recreational areas and ecologically significant
13 resources have often been ignored because no single
14 jurisdiction believes that it is their responsibility to
15 provide long-term protection for these areas.

16 We believe that these riparian area plans will
17 provide an opportunity for regions to add an important
18 dimension to their long-term land use and growth
19 management planning.

20 As I mentioned, we're committed to working
21 with the Commission, with the staff, and the eventual
22 legislative author of this proposal to assure passage of
23 a proposal and putting something on the Governor's desk
24 during the 1991 session.

25 I'm looking forward to working with you and with

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1 the others in support of the bill.

2 CHAIRMAN MC CARTHY: Good. Thank you. Mr.
3 Brown.

4 MR. BROWN: Thank you, Mr. Chairman, members of
5 the State Land Commission. I'm Corey Brown. I'm General
6 Counsel with the Planning and Conservation League.

7 We're a coalition of approximately 120
8 conservation groups throughout California. I first want to
9 congratulate the State Lands Commission for the
10 tremendous leadership you've been providing during the
11 last few years on environmental issues.

12 I had the good fortune to work on the oil spill
13 last year, which largely emanated from your work. And
14 your work made a tremendous difference in terms of
15 protecting our coastline. We're very glad to see that
16 same energy being channelled to protect riparian areas.

17 Riparian habitat is certainly one of the most
18 important types of wildlife habitat remaining in
19 California. Many species depend upon it, and whenever
20 we have that land and water interface, there's a variety
21 of different species that benefit.

22 Unfortunately, in California, we've lost more
23 than 90 percent of our riparian habitat. The problem is
24 extremely acute today, and that's why we're very happy to
25 see your resources and the talent of the State Lands

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1 Commission focused on this very important issue.

2 In 1984, there was a very important work --
3 The California Riparian Systems. Rick Warner was the
4 editor of it. They found the central valley historically
5 had about 921,000 acres of riparian habitat. Today,
6 only about 102,000 acres remain.

7 In the report on "Sliding Towards Extinction,"
8 the Senate Natural Resources Committee concluded that
9 less than one percent of the central valley's riparian
10 vegetation is in natural high quality condition.

11 Today, there are many threats to the remaining
12 habitat, and there are tremendous opportunities to
13 preserve that habitat as well as provide our growing
14 communities with a wonderful educational -- a wonderful
15 educational as well as recreational resource through the
16 parkway proposals.

17 But the losses of habitat I think are manifesting
18 in many very significant ways that underscore the
19 importance of this type of program. Again, the Senate
20 Natural Resources Committee, when they looked at wildlife,
21 what's been happening to California's wildlife, they
22 concluded that one-third of our mammals, a quarter of our
23 birds, a third of our reptiles, and 40 percent of the
24 freshwater species in California are all imperiled if
25 current trends continue, and that human activity is the

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1 number one threat to wildlife through loss of wildlife
2 habitat.

3 Especially as our central valley and interior
4 parts of California -- the foothills and other areas --
5 grow so quickly, there's wonderful opportunities, yet
6 a limited time, to preserve many of the riparian areas that
7 we have left. That's why this program is very timely.

8 I'd like to commend staff for an excellent
9 approach in terms of putting together the parkways program.
10 Certainly, in Sacramento, the American River Parkway has
11 been a tremendous local resource.

12 When I grew up in Southern California, in Los Angeles,
13 the beaches where we used to go during our summer days.
14 And I find that, in Sacramento, it certainly is the
15 river parkway that provides that similar type of
16 resource. It's definitely a pillar of community pride
17 and very important wildlife habitat protection.

18 When I first came to Sacramento, I was amazed
19 that you could ride about 10 minutes by bicycle from the
20 Capitol Building and see herons, you can see river otters,
21 beavers, fisheries, all kinds of other birds. You can
22 see people bicycling, hiking, family picnics, and a
23 variety of other resources.

24 We really see a real value in the river parkway
25 bill in fostering those type of community resources and

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1 long-range vision in many -- many other areas.

2 In some areas, a parkway may not be the best
3 approach, as we have in the upper Sacramento River,
4 where there's some issues that have made people realize
5 that a wildlife refuge may be important, but there
6 certainly is tremendous potential in many areas of the
7 State where the parkway is the proper approach. And the
8 type of flexible program you have here certainly provides
9 a very good way of fostering those type of programs.

10 The overall approach we think is a good approach,
11 especially in fostering good local planning efforts like
12 we saw in Sacramento, like we're seeing on the San Joaquin
13 River as well.

14 One of the most important provisions in the
15 proposal is requiring the plans to be part of the local
16 general plan to ensure that the planning process has a
17 long-term stability.

18 We applaud you for including the general plan
19 provisions in this particular proposal. We also applaud
20 you for including the community conservation corps. It's
21 an excellent way of providing youth with work. It's also
22 an excellent way of building additional community support
23 for these projects, and it will enhance the bill as it
24 moves through the process as well.

25 We believe that the sections requiring

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1 coordination with other agencies are very helpful, and
2 we hope to work with you more on those.

3 And there's some additional specific comments
4 we'll be offering. Overall, we want to commend you for
5 your leadership on focusing on protection of riparian
6 areas. We look forward to working with you on this
7 proposal and in providing additional communities, like
8 Sacramento has, with a wonderful resource of a river
9 parkway.

10 Thank you.

11 CHAIRMAN MC CARTHY: Thank you very much,
12 Mr. Brown. Any questions? Thank you.

13 COMMISSIONER DAVIS: If I could just comment.
14 I wanted to acknowledge Corey's efforts last year during
15 our merry-go-round experience -- roller coaster
16 experience on the Keene-Lempert bill, and commend you for
17 your steadfast support through good times and bad.

18 CHAIRMAN MC CARTHY: And he just commended you
19 just before you came in.

20 COMMISSIONER DAVIS: Well, we should just
21 adjourn and go home. It can't get any better than that.

22 MR. BROWN: As Mr. McCarthy was saying, one of
23 the things that we're very excited about is the State
24 Lands Commission involvement in this issue. Certainly,
25 the oil spill issue was the major issue last year. The

1 work that you folks did was certainly essential to the
2 progress that was made, and it's great seeing that type
3 of talent and those resources, and the foresight being
4 brought to bear on an important issue like preservation
5 of riparian habitat.

6 So, thank you, as well. We look forward to
7 keeping working with you.

8 COMMISSIONER DAVIS: Thank you.

9 CHAIRMAN MC CARTHY: Coke Hallowell of the
10 San Joaquin River, Parkway and Conservation Trust. Hi.
11 And Patty Hobbs -- no, no, I'm sorry. Lydia Miller,
12 San Joaquin Raptors Wildlife Rescue Center.

13 Is she here? Lydia Miller here? Lydia Miller
14 in the audience? All right. Why don't you please go
15 ahead.

16 MS. HALLOWELL: All right. Thank you very much
17 for allowing me to be here today. I'm very enthusiastic
18 about your legislation. I see so many familiar faces.
19 I've seen you either on or in the environs of the
20 San Joaquin River, and we appreciate the State interest,
21 the State Lands' interest in our efforts.

22 I'm here today, because Dave Kaylor has some
23 very pressing commitments at home, and I was very pleased
24 to take his place.

25 As you may know, we launched our efforts to

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1 protect and enhance the environs of the San Joaquin River
2 in 1988. Through strong support of Assemblyman Costa
3 and other individuals from Federal, State, and local
4 agencies, we have made a tremendous start. I'm very proud
5 of what we've done.

6 But we really have a long way to go. And we
7 plan a 22 mile trail, and various nodes of parks along the
8 San Joaquin River, and some of that is already on the
9 Planning Board. And hopefully, within a year, a year and
10 a half, we will have a trail to show you, a loop, near
11 Woodward Park, which is a city park. And this loop will
12 go to the river and up onto some county property. And
13 it looks very hopeful for that.

14 The dwindling riparian habitat in the State has
15 already been alluded to, and I know that you probably
16 know far more than I do about that. But along our river,
17 we still have towering forests of oaks, and sycamores,
18 and alders. We have beautiful bird habitat stringing up
19 and down the river, the particular parkway area that I'm
20 referring to.

21 Maybe some of you have seen the deer and heard
22 the beaver slaps when you've canoed on the river. I have,
23 and it's a memorable experience. And in Fresno, we have
24 an effort to get people on canoes and to get them on the
25 nature trails to become acquainted with our river, because

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1 a lot of people say, "Is that river really worth saving?
2 Is there something out there?" And so it's just a matter
3 of a lot of education, too, in the community, because
4 as Fresno goes north, it is on the fringe of the city.

5 The goals set forward in the California
6 Riparian Act are very applaudable, will help efforts all
7 over the State in communities, such as ours, who care about
8 the rivers. We look forward to the legislation winging
9 its way through the process, because its benefits will be
10 for all the citizens of the State. And I'm very excited,
11 and I share that with you I know.

12 Thank you.

13 CHAIRMAN MC CARTHY: Thank you very much.

14 MS. HALLOWELL: I have some brochures on our
15 parkway. Should I pass them to --

16 CHAIRMAN MC CARTHY: Why don't you leave
17 them.

18 MS. HALLOWELL: Thank you very much.

19 CHAIRMAN MC CARTHY: Thank you. Ginger Strong,
20 City of Visalia. Welcome.

21 MS. STRONG: Thank you. Thank you for the
22 opportunity to address you today. I represent the City of
23 Visalia and the project along the St. John's River Parkway.
24 The St. John's is part of the Kaweah River Delta system
25 found in Tulare County.

1 This project has been active for the last two
2 years. It has been in the planning stages for 10 years.
3 We have completed 2.5 miles of the proposed seven miles
4 that are running along the northern boundary of the City
5 of Visalia.

6 This project has taken a maximum coordination
7 of six Federal, State, and local agencies. Your proposed
8 legislation would dramatically -- and I cannot stress how
9 dramatic that is -- help local communities like ours to
10 facilitate the coordination of all these government
11 agencies. I lived in hotels up here for a number of
12 months getting everybody to talk to each other. We need
13 some help in that kind of thing. And this would help
14 people do that.

15 It would allow people to spend time doing
16 what they're best at -- working within the communities
17 and protecting the resources in their communities.

18 Our project could some day reach 21 miles along
19 the Kaweah River Delta and protect the valley oak riparian
20 woodland that is found down there. With this proposed
21 legislation, it would enable many other communities,
22 besides the City of Visalia, to do that.

23 We applaud you for recognizing the need for this
24 type of a program, and I encourage very much in carrying
25 forward with your efforts.

1 CHAIRMAN MC CARTHY: Thank you. Have you
2 given us that statement in a letter in writing?

3 MS. STRONG: I can.

4 CHAIRMAN MC CARTHY: All right. Thank you.
5 Any questions? Thank you.

6 Mr. Mel Dodgen of the Pacific Coast Federation
7 of Fishermen's Associations.

8 Mr. Dodgen.

9 MR. DODGEN: My name is Mel Dodgen. I'm
10 representing the PCFFA, or Pacific Coast Federation of
11 Fishermen's Associations. Zeke sends his hello and
12 happy New Year to everyone. So, I'm covering for him
13 today.

14 PCFFA feels that this is a good piece of
15 legislation. I personally have a little experience. I
16 worked on the 1086 program on the upper Sacramento. I
17 know what that's taken. And they are now doing the
18 riparian habitat study for that.

19 I live along the American River. I see what's
20 happened there with the parkway, and everything it's at.
21 And I've been in California almost all of my life, and I
22 can name some small communities where, if this goes
23 through, it will help them to preserve some of the riparian
24 habitat that's going to be lost because they do not have
25 the wherewithal to take care of these things.

1 And I do commend you on this. We know PCFFA
2 worked with you on the oil spill and everything like this.
3 And the one thing I would say about this is I hope the
4 rest of our rivers do not wind up like the Los Angeles
5 River. Thank you.

6 CHAIRMAN MC CARTHY: Thank you very much.

7 Mr. John Newbold. He's the Director of the
8 Mokelumne River Alliance. Welcome. Good afternoon.

9 MR. NEWBOLD: My name is John Newbold. And the
10 Mokelumne River Alliance is a group that just recently
11 was formed in the City of Lodi, and we encompass members
12 from San Joaquin County and other members from foothill
13 communities and surrounding.

14 And we seek the long-term preservation,
15 enhancement, and restoration of the Mokelumne River and
16 its bordering habitat for the present and future benefit
17 of wildlife, fisheries, and citizens of the area. And
18 two of our goals, one of which is the preservation
19 and restoration of natural habitat along the river, and
20 our second goal is to ensure and promote public access to
21 the river consistent with protection of its values.

22 So, considering those goals, we obviously
23 enthusiastically support the California Rivers Riparian
24 Parkway program.

25 There's some considerations as far as a parkway

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1 in our area.

2 We have mentioned the parkway to the Lodi
3 City Council, and the county. And we have gotten good
4 support from the community. But there are some realities,
5 and we do have a very vocal group that has, you know, come
6 up with a negative reaction. And I think that there are
7 things in a parkway consideration that, you know, we,
8 from our own personal experience, have really sort of
9 butted our heads against, one of which is landowners
10 that abut the parkways.

11 And we have had some issues raised -- violations
12 of constitutional rights, telling me what to do with my
13 property, and also the dreaded fear of condemnation. A
14 lot of these property owners seem to sort of boil all this
15 down into one. They think, oh, you're going to take my
16 property away. And I think that a part of this really
17 should be an education of people that might be impacted
18 along the borders.

19 But I'm just mentioning that through our
20 personal experience in San Joaquin County. We have
21 experienced growth and large-scale development that
22 encroaches on the banks of the river and threatens the
23 natural resources that the river sustains. And in
24 San Joaquin County, it's almost appalling to realize that
25 there are only four points along the river where the public

1 has access to the Mokelumne River, one of which is
2 controlled by East Bay Municipal Utility District at their
3 regional park up at Camanche. And then there's two county
4 parks; a very small one, Stillman McGee; and Woodridge
5 Regional Park, which is a very undeveloped park; and then
6 the City of Lodi, which provides access, but limited
7 access. And you are not even to swim in the river from
8 Lodi Lake Park.

9 So we do have a very pressing need for public
10 access and access that is consistent with protection of
11 the river's values.

12 The City of Lodi has mentioned conservation
13 and a parkway in its draft general plan, which is still
14 under review. And it has gotten some negative reaction,
15 but the general populace in San Joaquin County is supportive
16 of any kind of parkway or parks along the river.

17 The river stretch between highway 99 and lower
18 Sacramento Road would seem to be a logical place for a
19 parkway. Along the south bank is really houses just
20 right next to each other, some even built in the flood-
21 plain. On the north bank is some large estates and some
22 ag land, which seems like there could be a parkway worked
23 into the program.

24 Other than that, we really do need and seek long
25 overdue help in what we're trying to do in San Joaquin

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1 County in promoting public access. And this program, the
2 California Rivers Parkway program, seems to really fit the
3 bill. And we would like to encourage you to help promote
4 it along. And we would like to offer our assistance in
5 supporting it.

6 CHAIRMAN MC CARTHY: Thank you. Appreciate that
7 very much.

8 Pamela Romo of Walnut Creek. Miss Romo.

9 MS. ROMO: Thank you.

10 CHAIRMAN MC CARTHY: I want to acknowledge the
11 presence of Gene Andal of the County Parks Directors
12 Association of Sacramento County, who is here if we want
13 to ask him any questions. We thank you for your presence,
14 sir. Miss Romo.

15 MS. ROMO: Thank you. My name is Pamela Romo,
16 and I'm a citizen activist working in Contra Costa County.

17 We are currently working on a program right
18 now in Contra Costa County to create a greenway along
19 Walnut and San Ramon Creeks. It's certainly not of the
20 size of river that you all have been addressing so far this
21 morning. And because of that, I would like to encourage
22 you to write the definition for waterway as broadly as
23 possible.

24 We're very excited about this program and we
25 think that it's a wonderful idea. And we would really

1 like to make sure that we're included in that as well.

2 As you probably know, Contra Costa County is
3 exploding in population. And the greenways that we may be
4 able to create in this area will really be an important
5 element in a highly urbanized area. We would also like to
6 expand the riparian habitat not just along the corridors,
7 but actually into the urban environment. And so, we would
8 really like to see some legislation to help that.

9 Also, one thing that I did notice in what you
10 have written so far is that you have not noted the water
11 quality. I think, certainly in an urban environment,
12 that's a very important element as well, and we would
13 really like to encourage you to include that in your
14 legislation. Because I think that by creating protection
15 for small waterways, we can create a whole network of
16 riparian habitat throughout the State, and perhaps
17 recreate much more of it than if you just concentrate on
18 main waterways.

19 Anyway, overall, we are very excited about
20 what's happening. I have passed on the legislation that
21 was sent to me to the county and flood control people,
22 and they're very interested in this as well.

23 Thank you.

24 CHAIRMAN MC CARTHY: Thank you very much.

25 That's all the witnesses I have listed for Item No. 1

1 MR. WARREN: Just two other things, Mr. Chairman.

2 CHAIRMAN MC CARTHY: Let me ask, Mr. Warren,
3 if I may, were there any other members of the audience
4 who wanted to testify on Item No. 1? Mr. Warren.

5 MR. WARREN: All right. To conclude Item No. 1,
6 Mr. Chairman and members, staff has received
7 correspondence from Heather Statton, who's Director of
8 Parks and Recreation of the City of Napa; and from Joe
9 Hall, Executive Director of the Redevelopment Department
10 of the City of Santa Cruz, both in support of the program.

11 And the correspondence from Santa Cruz has
12 attached a concept plan for the San Lorenzo River in that
13 area. And that will be made a part of the record.

14 Finally, Mr. Chairman, members, you have before
15 you a text about which I heard only recently, and copies
16 of which I ordered and received only yesterday. It's a
17 text published by John Hopkins and prepared by the
18 Conservation Fund. It's a story of the Greenway Program
19 throughout municipal areas throughout the country. From
20 what little we've been able to glean from it, what we are
21 doing here is unique in the United States, but is on
22 target.

23 I received a telephone call yesterday from
24 Arlington, Virginia, from the individual who's head of the
25 Greenbelt Alliance nationwide, to whom we furnished a copy

1 of the bill. He was very supportive. He would have
2 preferred -- he had two suggestions to make, one of which
3 makes sense to me, one of which I'm not sure we can
4 accommodate. The latter is that he would have preferred
5 that the word "greenbelt" appeared in the name of the
6 program, and that's for reasons I can understand.

7 He also suggested that we take into
8 consideration historical and cultural aspects of the
9 river environment. And that's something I think the staff
10 would like to explore.

11 Other than that, that concludes our presentation.
12 No formal action by the Commission is necessary. We will
13 proceed with the legislation and in the course that is
14 directed by the Commission, and report to you from time
15 to time on the progress of the legislation.

16 CHAIRMAN MC CARTHY: Thank you very much. We
17 want to work with the new Governor on this legislation,
18 who has indicated a specific interest in river habitat.

19 MR. WARREN: Yes.

20 CHAIRMAN MC CARTHY: And the sooner we meet with
21 Doug Wheeler I think the better all around. He takes his
22 seat next week.

23 MR. WARREN: The Commission should be advised
24 that I have, on behalf of the Commission, I've directed
25 two letters to Pete Wilson; first, during the course of the

1 campaign when he made some reference to the need for the
2 preservation of the riparian resource, acquainting him
3 with staff activities and offering to give him information
4 about those activities; and also, most recently, a letter
5 advising him of our revenue enhancement activities and
6 also to again advise him of our activities in this area,
7 and requesting an opportunity to meet either him or his
8 new Secretary of Resources.

9 At the time that letter was sent, the new
10 Secretary designee had not been made, but we'll renew the
11 offer now that we know who that is.

12 And we will again report to you on our progress.

13 CHAIRMAN MC CARTHY: Okay. All right.

14 MR. WARREN: The next item -- I'm sorry.

15 MS. MILLER: I'd still like to testify. I came
16 in late. Lydia Miller on the --

17 CHAIRMAN MC CARTHY: Please go ahead.

18 MS. MILLER: Thank you. I'm Lydia Miller with
19 the San Joaquin Raptor Wildlife Rescue Center and speaking
20 on behalf of the Citizens for a Healthy Environment in the
21 central valley.

22 We support the proposed Act as it is much
23 needed to preserve our public trust. Our waterways, and
24 tributaries, and floodplains are under siege from a
25 multiuse of encroachment by special interests. These must --

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1 there must be clear direction of implementation for this
2 proposed Act to truly preserve public trust.

3 Our concerns are a result of working on a
4 project under the Department of Water Resources Stream
5 Restoration Plan in Merced County. It was supposed to be
6 an enhancement of a local creek, but it turned out to be
7 a flood maintenance plan of the local levee -- or flood
8 district.

9 So, we do have some concerns that we feel should
10 be implemented into the plan. Number one, there needs to
11 be inventories. There is a comprehensive study that
12 should be done on our waterways and tributaries, and this
13 needs to be done.

14 There also needs to be a coordination with
15 other agencies. There's nothing more frustrating than
16 trying to preserve an area and then have another agency
17 coming in and then raising concerns or not raising
18 concerns.

19 Not consistent. Again, State Lands needs to
20 do an inventory of what is held in trust and what has been
21 devastated in the last five, six years. They're not
22 consistent. One project I can bring to mind is one on the
23 Mokelumne versus one on the Stanislaus. There needs to be
24 consistency with the agency itself.

25 Conflicts. Again, there has to be a very clear

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1 definition of who can utilize this restoration project
2 or enhancement/preservation. If a flood district sees an
3 opportunity, as we saw in Merced, they will plant, but
4 at the same time they'll go out and clear a channel. And
5 this happened.

6 Cumulative impacts must be addressed. Again,
7 if a comprehensive inventory was done of State land, we
8 would know exactly what should be preserved, what could be
9 enhanced, and what could be restored. No net loss of
10 wetlands, again, we feel concern that it shouldn't just be
11 focused in on riparian. We run into problems constantly
12 with agencies, as well as local government, that riparian
13 is very defined, where it should be wetlands should be
14 incorporated in that.

15 And five percent should not be compromised.
16 Again, if there's an inventory, we would know where this
17 five percent is, and that anything else would actually
18 be enhancement.

19 Public trust versus multiuse: Again, recreation
20 seems to be the thrust of selling the public whether or not
21 a lot of these enhancement projects go in. But we also
22 must look at limited access or restricted access use.

23 Enforcement: In dealing with the Clearing and
24 Snagging Act, one of the problems that we saw was
25 trespassing of landowners, dumping violations, and

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1 agriculture conflict. We would like to see enforcement
2 capability of the project.

3 Floodplain: Our floodplains are having an
4 urban explosion -- houses, new towns, agriculture runoff,
5 as well as storm runoff into our tributaries. This has to
6 be addressed.

7 Chemical application, we do have that problem
8 anytime you have a parkway set up; there must be
9 restricted type of chemical use and maintenance of so-
10 called nuisance species.

11 Buffer zones and setbacks: Again, if there's
12 an inventory, we would know what was biologically
13 sensitive.

14 Easements and contracts held by other agencies:
15 On the Stanislaus River, we're having a terrible problem,
16 because there are four or five different types of
17 easements that control or dictate to the agencies how that
18 land can be used. And we're finding that they're as old
19 as 20 years old. And no one really knows what the
20 easements entail, and there's no enforcement.

21 Five years is far too long for the funds to be
22 used. We feel that the funds should be used within a very
23 limited amount of time as the cumulative impacts would
24 change the scope of any proposal. Five years is too long.

25 The proposed project should also have -- or any

1 proposed project should have a monitoring plan, should also
2 have enforceability, and guaranteed implementation. We
3 don't want projects started halfway through, and then not
4 finished.

5 And the revegetation plan: One of the worst
6 scenarios is it looks wonderful on paper, and then there's
7 one planting done for enhancement, and it doesn't happen.
8 The vegetation doesn't take off. There needs to be a
9 series of revegetation.

10 And again, we do support this project or this
11 Act, but at the same time we feel that some of these other
12 concerns need to be implemented for very clear direction,
13 so abuse does not set in.

14 Any questions?

15 CHAIRMAN MC CARTHY: Yes. I was just going to
16 ask that myself. Any questions? No. Thank you very
17 much.

18 MS. MILLER: Thank you.

19 Now, Item No. 2.

20 MR. WARREN: Mr. Chairman, members, Item No. 2
21 is an uncontested item, I believe, and I have no
22 appearance sheets.

23 The action requested of the Commission today
24 is to authorize the entering into a title settlement
25 agreement along a one-mile stretch of the Sacramento River

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1 in Yolo County.

2 This is the boundary line agreement that we
3 propose the Commission undertake with the project
4 developer, Lighthouse Marina. The representative of the
5 developer is here, Mr. Peter Crow, if you have any
6 questions you want to put to him.

7 But essentially, the boundary line agreement
8 results in a line being established setting -- identifying
9 a one-mile littoral corridor along the river riverward
10 of the levee. It proposes the assignment to the State
11 Lands Commission of the 125 acre Amen Ranch, which is up-
12 river of the project, and the one-mile littoral corridor
13 to which reference was made.

14 It requires the revegetation of that littoral
15 corridor, a part of which has been damaged -- was damaged
16 during the course of construction, but a significant part
17 of which remains native riparian resource.

18 We also will be given \$200,000 for the Kapiloff
19 Land Bank Fund as a mitigation. And let's see. Those
20 are the major components. Mr. Blake Stevenson of our
21 legal staff has been the principal staff person involved
22 in the negotiation of this agreement, and he's available
23 to respond to any questions that you may have.

24 As I say, I have no -- Mr. Crow, representing
25 the project developer is here fully in support, as you might

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1 expect. If you have any questions you want to direct to
2 him, he's here to answer, and Mr. Stevenson.

3 CHAIRMAN MC CARTHY: Questions?

4 COMMISSIONER DAVIS: I want to make sure I
5 understand this. The Commission essentially has reached
6 an agreement which reflects its initial demands? This is
7 essentially a settlement on our terms?

8 MR. WARREN: I hate to say that in the presence
9 of Mr. Crow. Perhaps his client is here with him. I
10 don't know. You know, in all the years I've been in public
11 service, I don't have an answer to that question. On
12 favorable terms, yes. I think both sides view this
13 agreement in a favorable light.

14 COMMISSIONER DAVIS: All right. Let me ask a
15 second question. I understand the ownership of this has
16 changed over the last three years, and the current owners
17 represent new investors in this property?

18 MR. WARREN: Yes. I understand that there are
19 new majority holders in this project, new owners. They
20 happen to be Japanese companies. I've worked with them,
21 with their engineers and their representatives, and I found
22 them to be straightforward in their dealings with me and
23 with us, and it's been a pleasure to work with them.

24 The negotiations have been prolonged and there
25 were setbacks along the way, but I think the final result

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1 is beneficial to both sides.

2 And, of course, this will be a key component
3 of the next item, which is the Sacramento River memorandum
4 of understanding.

5 CHAIRMAN MC CARTHY: Questions from the
6 Commission? Any other Commissioner?

7 COMMISSIONER DWIGHT: Move the recommendation.

8 CHAIRMAN MC CARTHY: The recommendation is
9 moved that's before the Commission. Is there any further
10 comment from the audience? Unanimously authorized.

11 Item 3.

12 EXECUTIVE OFFICER WARREN: Calendar 3 is an
13 item which requests the Commission to authorize the
14 Executive Officer to execute on behalf of the Commission
15 a memorandum of understanding with the Counties of Yolo
16 and Sacramento and the City of Sacramento establishing a
17 Sacramento River Riparian Parkway.

18 Behind you is a diagram of the Sacramento River
19 Riparian Parkway, which is the subject of this proposed
20 memorandum of understanding. You may recognize the 31
21 miles stretch of river corridor represented by that
22 diagram as the section of the river which this Commission
23 considered when it undertook a marina capacity study a
24 number of years ago.

25 In the early months of 1990, when the potentials

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1 of a Lighthouse settlement became clear to us, we contacted
2 the counties and city, as I've indicated, to suggest to
3 them that perhaps collaboratively we could undertake to
4 develop a parkway along this specific section of the
5 Sacramento River.

6 Our suggestion was enthusiastically received by
7 three of the four -- initially, by all four of the
8 governments we contacted.

9 The counties -- both counties, the Boards of
10 Supervisors of both counties unanimously approved the
11 proposed MOU. Both Chairpersons of the two Boards are
12 present today to testify.

13 The proposed MOU was also unanimously approved
14 by the City Council of the City of Sacramento, and the
15 Mayor of Sacramento is here to testify on its behalf.

16 The City of West Sacramento, while initially
17 supportive, had some reservations which it communicated to
18 me. As a result of that communication, we prepared
19 jointly a letter of explanation, which is a part of the
20 package. It's a letter setting forth how the MOU was to --
21 what the intention was of the MOU. That letter is in
22 your package.

23 Subsequently, and for reasons which are not
24 clearly understood, the MOU and the letter were not deemed
25 acceptable to the City Council of West Sacramento, although

1 they continued to send representatives to our Technical
2 Planning sessions to which they were most welcome.
3 Nevertheless, the City Council yesterday delivered a
4 letter -- a revised MOU, which it proposed that this
5 Commission consider.

6 The revised MOU, which the City of West
7 Sacramento has asked us to consider, was presented to the
8 other signatories earlier. All the other signatories
9 agreed with the State Lands Commission staff that the
10 West Sacramento revisions were not acceptable.

11 We think that, although this is unfortunate,
12 we do not believe that the presence of West Sacramento in
13 a formal manner is a matter which should delay -- is a
14 cause for delaying the project. We believe that the
15 State Lands Commission, with the two counties and the
16 City of Sacramento, can proceed with our planning
17 activities. And at such time as the City of West
18 Sacramento can feel assured as to our intentions and our
19 procedures, I'm confident that they will revisit their
20 decision as to whether or not they should formally
21 participate.

22 Of course, they will be more than welcome in
23 the Technical and Planning Committee sessions.

24 Now, on the parkway itself, as I say, we have
25 identified public ownership of parcels along this 31-mile

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1 stretch. We have contacted -- well, in addition to the
2 counties, the city, and the State Lands Commission holdings,
3 there are holdings by the Airport Authority; the Airport
4 Authority, as you know, is acquiring sites, private
5 residential lots. And we've discussed with them the
6 possibility of those lots, once acquired, being dedicated
7 to the park -- for parkway purposes.

8 The University of California has ownership
9 of parcels along the parkway, which I think we are
10 convinced can be made available to the parkway for its
11 purposes.

12 We have a letter of support from the -- a very
13 important letter of support from --

14 MR. TROUT: Reclamation Board.

15 EXECUTIVE OFFICER WARREN: I'm sorry.
16 Reclamation Board; a copy of that letter is in your
17 packet.

18 And I can't underestimate the importance of
19 the support that we have from them, and we appreciate
20 it very much.

21 Let me ask Kata. What other public and private
22 ownership interests have we identified along the river?

23 MS. BARTOLONI: We've also identified the
24 Sacramento County Regional Sanitation District, which has a
25 large parcel in the south that they already allow fishermen

1 access to just in an informal way. And I think Audubon
2 Society manages some of that property as a wildlife area,
3 also somewhat informally. But they've expressed interest.
4 We've identified them as an owner, and they've also
5 expressed interest.

6 The U.S. Government has some ownership -- that
7 is, like the U.S. Army Corps of Engineers. And we have
8 begun discussions with the Army Corps. They may or may not
9 be able to allow access along some of their properties.
10 In some cases, Army Corps and Reclamation Board have
11 easements along private parcels, which would expand the
12 areas that we've even indicated as being public
13 ownership. They have management easements along large
14 private property parcels, and those may also be available
15 for restoration activities. They may not be available
16 for a lot of access and recreational activities, but they
17 would be willing, if we can work out the details, to do
18 some planting and restoration of original habitat in some
19 areas.

20 We have discussed with the Army Corps of
21 Engineers, in addition to that, the possibility that they
22 may be able to participate with us in some recreational
23 property development.

24 EXECUTIVE OFFICER WARREN: In short, Mr. Chairman
25 and members, I'd like to point out that in the space of a

1 very few months, working collaboratively with local
2 government and using existing resources -- both funds and
3 physical resources -- without the need for additional
4 funding, we have -- we have, in the process of creating
5 a 31-mile river riparian parkway, I think it's a good
6 example for what I hope will be the lesson to apply in the
7 statewide program, and that's creative resource
8 management on a collaborative basis between the State
9 and local governments.

10 It's creative in the sense that each proposal
11 will involve different considerations, but I think things
12 can be done with limited resources. Now, admittedly, and
13 this is important to recognize for us, it will take
14 years for this parkway to mature. But we are stitching
15 together parcels now, and we'll soon have it completed,
16 in our opinion, to provide parkway amenities.

17 I might point out that it's taken years for the
18 American River Parkway to reach the point of maturity
19 that it now experiences, and it's still not complete.

20 So, while I -- you know, I think this is an
21 excellent first step. It's a good example, and one on which
22 we can build in the event the statewide program is
23 successful.

24 And if I may now, I'd like to call on our
25 scheduled witnesses. Mr. Chairman?

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1 CHAIRMAN MC CARTHY: We'll start with Mayor
2 Rudin. And may I also ask Supervisor Collins to step
3 forward, and Supervisor Thompson.

4 Supervisor Illa Collins representing the
5 Sacramento County Board and Supervisor Helen Thompson
6 representing the Yolo County Board.

7 Mayor Rudin, let's start with you, please.

8 MAYOR RUDIN: Thank you, Mr. McCarthy and
9 members of the Commission.

10 I really appreciate the chance to be here
11 today. I am Anne Rudin, Mayor of the City of Sacramento.
12 And I want to thank you for giving us the opportunity to
13 speak to the need for riparian planning along the
14 Sacramento River.

15 I'll tell you right off that we are supporting
16 this wholeheartedly. Our staff is behind it. Our City
17 Council is behind it. We are ready to work with you, and
18 we appreciate the cooperation that the State has shown.

19 Our city is graced with two beautiful rivers,
20 I think two of the most beautiful in California. And on
21 the face of our water treatment plant, there is inscribed
22 a phrase from the Bible that says, ". . .and everything
23 shall live wheresoever the river cometh." And that really
24 is true. I think that's a beautiful description of our
25 city.

1 Certainly, these rivers provide the water we
2 need to sustain life, to sustain commerce, to sustain
3 recreation, as well as provide a habitat for diverse
4 populations of flora and fauna.

5 One river, the American River, is already
6 protected by the American River Parkway as you've already
7 heard. The plan was adopted more than 15 years ago. And
8 we had the cooperation of our regional body and the
9 County, of course, working with the City. And I must say
10 that we've adhered to it faithfully.

11 Once we establish limits, then it isn't so
12 hard to stick to those limits, because people know what to
13 expect. They know what they may or may not do. And I
14 think both the City and County have shown a great deal of
15 strength in resisting pressures to intrude and to invade
16 that parkway. And we are keeping it in its natural state.

17 We recognize, though, that we are a city, that
18 this is a thriving and a growing urban area. Nevertheless,
19 we do want to preserve these resources, and we believe
20 that it can be done in ways that accommodate people's needs
21 as well as to allow humans and wildlife to coexist in an
22 environment that's compatible for both.

23 We recognize that, as you go through the
24 different jurisdictions, there are different jurisdictional
25 needs, different issues that have to be addressed. But

1 we think that that can be done with hard work, of course,
2 to try to reconcile all the points of view.

3 We know that Sacramento as a city is only one
4 of a number of jurisdictions that share responsibility
5 for the Sacramento River. Our vision can't take us beyond
6 our own boundaries, so somebody else has to have that
7 vision, the broader view. And we think the State Lands
8 Commission in establishing MOUs with regional jurisdictions
9 on a regional basis can provide that broader, long-range
10 vision.

11 And we need the cooperation of many
12 jurisdictions. I'm very pleased that we have the two
13 counties along with us. I hope that our neighbors across
14 the river in West Sacramento will come along in some way
15 or other. We certainly don't want to delay our planning
16 for the river. And we look at them. They are what we see
17 from our side of the river. We want to give them a nice
18 view. We hope that they will do the same thing for us
19 and protect what we hold very dear.

20 I haven't seen the revision yet, but I hope that
21 we waon't hold up our own agreement and lose the opportunity
22 and the momentum that's been established. I think it's
23 very important.

24 But with the rate of growth that's going on and
25 the increased demands for urban development, we really don't

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1 have any time to lose. We must begin now to plan or
2 continue with our planning process for the appropriate
3 and compatible uses of the Sacramento River.

4 And I'm very pleased that at least the counties
5 are in unison on this, though sometimes it's not easy to
6 get that kind of consensus. We have it, and we hope that
7 we can work out something with our neighbors across the
8 river in West Sacramento.

9 So, thank you very much.

10 CHAIRMAN MC CARTHY: All right. Supervisor
11 Collin?

12 SUPERVISOR COLLIN: Thank you very much. My
13 name is Illa Collin. I'm the incoming Chair of the
14 Board of Supervisors for Sacramento County.

15 And I also have a great deal of enthusiasm for
16 this memorandum of understanding. And I was interested
17 as Mr. Warren presented some of the parcel descriptions
18 and some of the cooperation that has occurred so far, that
19 we are governing body for the Department of Airports. We
20 also sit on the governing body, as does Mayor Rudin, for
21 the Regional Sanitation plant. So I would feel that, with
22 those bodies also showing their enthusiastic support and
23 cooperation, those are some major parcels along the river.

24 Now, certainly, I think that from the past
25 experience -- I served three years on the State

1 Reclamation Board also, and so I know the incredible
2 jurisdictional difficulties in terms of groups trying to
3 plan for the future of the river. And I think the
4 Sacramento River is going to be an extremely difficult
5 one to plan for.

6 And so, I am glad that State Lands has taken the
7 leadership position that it has. I'm glad that the
8 jurisdictions are working together. I think all of us
9 recognize we have an incredible resource. If we were to do
10 it over again, we probably would set those levees back
11 a lot farther, and we would have more to work with. But
12 we have a river very tightly constrained by levees as it
13 goes through this urban area. So, it creates a real
14 challenge for all of us in terms of how best to plan and
15 how to balance the demands of property owners for
16 commercial development with I think the long-range
17 State demand -- that should be there anyway -- for
18 the riparian values and habitats for the State as a whole.

19 We certainly are in great agreement with the
20 goals in the memorandum that call upon us to preserve,
21 protect, enhance, and restore the riparian corridor. We're
22 hopeful that with all of our joint work together, we can
23 get that done.

24 And we really are enthusiastic about continuing
25 working with the jurisdictions and with the Commission. And

1 I am very grateful that Gene Andal is here today, because
2 he's also, as our Park Director, played a very key role
3 in terms of his leadership in recognizing this for a
4 wonderful opportunity here in the Capital City for us to
5 be doing something cooperatively.

6 Thank you very much.

7 CHAIRMAN MC CARTHEY: Thank you. Supervisor
8 Thompson of Yolo.

9 SUPERVISOR THOMPSON: Thank you very much.
10 As Chair of the Board of Supervisors, I am here to report
11 that on August 21st, our Board in a rare show of
12 unanimous support voted by vote to enter this MOU.

13 I would like to just give you a personal
14 reflection on what I believe is the importance of this
15 project before you today. When much of what I deal with
16 as a Supervisor is influenced by our dreadful lack of
17 financial resources in Yolo County, such as the perilous
18 existence of our county hospital, the rapid service
19 deterioration of our mental health system -- once one
20 of the finest in the State -- and I could go on and on.
21 Our 75 percent turnover, for example, in our Social
22 Services staff. This project gives me some spiritual
23 hope. And I need that.

24 So, I am really pleased to be a part of this
25 whole effort as is our County Board of Supervisors. For

1 many years, the Yolo County Board of Supervisors has had
2 a very long and historic environmental tradition. That's
3 reflected in the fact that 73 percent of the land that's in
4 the unincorporated area in Yolo County is in the
5 Williamson Act. It's also one of the reasons we're
6 broke.

7 But nevertheless --

8 (Laughter.)

9 SUPERVISOR THOMPSON: -- nevertheless, we have
10 tended off development in a lot of areas, and we look to
11 the river as a source of pride and enjoyment, of
12 spiritual renewal, of recreational opportunities. We have
13 three parks along the river at a time when our park
14 budget is absolutely at minimum standards for any standard
15 whatsoever.

16 We have the Knights Landing fish access and
17 boating access, the Clarksburg area, and the Elkhorn
18 Park, which, as you look at the Amen acquisition, and I'm
19 pleased to know that we'll be dealing with you so you're
20 not the ones taking the soil off to the American River
21 from that project, we really do believe in this
22 environmental opportunity to enhance, protect, and to
23 participate in the regional effort. And, of course, this
24 is a regional effort, and we do want to support that.

25 We are, I would like you to know, buying 11

1 acres of stand of oaks from the University of California
2 Regents. We have that about to be, we hope, finalized.
3 And again, that's near the Elkhorn Park. And so, we do
4 have a very strong heritage of wanting to preserve our
5 environment while we know we exist in one of the fastest
6 urbanizing areas in the State.

7 And it's for those reasons that we are supporting
8 this effort, and thank you and thank your staff for the
9 development of this, and look forward to participating
10 in what will be a very fine thing for us all to leave for
11 the future.

12 Thank you.

13 CHAIRMAN MC CARTHY: Thank you, the three of
14 you, very much. I wanted to thank you for your
15 leadership and the very cooperative, positive help from
16 your staffs.

17 Questions from Commissioners? Thank you very
18 much.

19 CHAIRMAN MC CARTHY: Steve Evans, Friends of the
20 River? Mr. Evans?

21 MR. EVANS: Happy New Year.

22 CHAIRMAN MC CARTHY: Thank you.

23 MR. EVANS: Thank you for soliciting public
24 input on this. And I appreciate, Friends of the River in
25 particular, being invited to comment on the establishment

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1 of a Sacramento River Riparian area and Parkway.

2 I'm conservation director of Friends of the
3 River. We have 10,000 members in California and
4 throughout the West dedicated to the preservation of
5 free-flowing rivers. And particularly, one of my favorite
6 rivers is the Sacramento. I've been on Sacramento River
7 issues for many years now. Friends of the River strongly
8 supports the establishment of a Sacramento River Riparian
9 Parkway as proposed in the memorandum of understanding
10 signed by the State Lands Commission and other local
11 governments.

12 We think it's long overdue. It's something
13 vitally needed, and it will provide a unique balance to
14 the development and other uses along the river.

15 We think it's unfortunate that the City of
16 West Sacramento has not joined in as yet. We hope they
17 will in the future, although I don't know exactly what
18 their concerns were. I would like to receive copies of
19 their comments if we could to see if we can generate
20 a little citizen support from the good people of West
21 Sacramento in support of establishing the parkway.

22 One thing I would like to mention is, as was
23 mentioned earlier in earlier testimony on the general issue
24 of riparian parkways, is -- it's very important that we
25 preserve our riparian habitat along the rivers, in particular

1 on the Sacramento. The Sacramento is a migration
2 corridor for many species of fish and wildlife, including
3 California's multimillion dollar salmon fishery, but
4 also threatened and endangered species, which several
5 migrate up and down the Sacramento River to various
6 islands of refuge, as you will, such as the proposed
7 Stonelakes Refuge in the south, and the currently being
8 established Sacramento River National Wildlife Refuge
9 upstream of Colusa, where the U.S. Fish & Wildlife Service
10 hopes to acquire and preserve over 18,000 acres of
11 riparian habitat.

12 Establishment of a riparian parkway in the
13 Yolo County/Sacramento County area will provide an
14 important connection between those two. And we hope that
15 once the bugs are worked out, if there are any bugs, that
16 the Commission will consider joining in a partnership with
17 counties and other local governments upstream of Sacramento
18 and Yolo Counties to extend the parkway to at least
19 Colusa where a vital segment of the Sacramento remains
20 unprotected.

21 As Corey Brown mentioned, the river above Colusa
22 is the target of the acquisitions for the Sacramento River
23 National Wildlife Refuge, and probably does not require the
24 kind of protection a riparian parkway would provide.

25 I didn't want to come up here twice, but I also

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1 want to support our support in the concept of the
2 legislation for establishing riparian parkways throughout
3 the State. We think it's a vitally needed piece of
4 legislation, and we're looking forward to working with
5 the Commission for the passage of that legislation.

6 Thank you.

7 CHAIRMAN MC CARTHY: Thank you very much.

8 Questions? Thank you.

9 Mr. Newbold, I had you down for Items 1 and 3.
10 Do you want -- is Mr. Newbold still here? Did he leave?

11 EXECUTIVE OFFICER WARREN: Pardon me for
12 interrupting, Mr. Chairman. I think you overlooked
13 Paul Knepprath.

14 CHAIRMAN MC CARTHY: Well, I didn't --

15 EXECUTIVE OFFICER WARREN: Is he not here?

16 CHAIRMAN MC CARTHY: I was told that he was
17 absent. Did Mr. Knepprath come in? Would you step
18 forward, please? I'm sorry. When we checked at the
19 beginning of the meeting, apparently they didn't see you.

20 MR. KNEPPRATH: Sometimes the name gets a little
21 bit confusing, as well, when it's spelled the way it is.

22 My name is Paul Knepprath. And I'm here
23 representing the Sacramento River Preservation Trust. And
24 I appreciate the opportunity to speak before you today.

25 We're an organization that represents members

1 throughout the watershed of the Sacramento River from the
2 headwaters above Shasta Dam to the place where it dumps
3 into the Bay, and into the estuary. And we certainly are
4 in support of the Sacramento River Riparian Parkway.

5 We are currently -- although we're not a
6 signatory on the MOU before you, we are working with the
7 participants, the other signatories, in a technical working
8 group to plan and to carry out the concept of the
9 river riparian parkway for Sacramento.

10 It's a great opportunity. I really want to
11 congratulate the Commission, the staff of the Commission,
12 for taking the leadership on this issue, and providing the
13 vision that I think Sacramento has long needed in terms
14 of doing something with the Sacramento River. It has long
15 been the dumping ground, I believe, in this community and
16 now I think we're really going to elevate it to the
17 status that it deserves. So, I appreciate your support
18 and what you're doing today.

19 CHAIRMAN MC CARTHY: Thank you very much.
20 I appreciate your testimony.

21 Now we have two witnesses who perhaps want to
22 express some reservations about this proposal. Mr.
23 Val Toppenberg, who is the Redevelopment Director for the
24 City of West Sacramento, and Mr. Howard Wexler,
25 representing McCuen Properties.

1 Why don't you both just come up here.

2 MR. TOPPENBERG: Thank you, Mr. Chairman and
3 members of the Commission. I appreciate the opportunity
4 to address the Commission today. The previous speakers --

5 CHAIRMAN MC CARTHY: Could you start with your
6 name, please?

7 MR. TOPPENBERG: I apologize. Val Toppenberg.
8 I'm representing the City of West Sacramento.

9 Having heard the previous speakers, one would
10 believe that the City of West Sacramento does not support
11 the establishment of a riparian parkway. Let me express
12 that nothing could be further the truth. The City of
13 West Sacramento is very supportive of the planning
14 process and the establishment of a Sacramento River Riparian
15 Parkway.

16 In fact, the recently adopted West Sacramento
17 general plan calls for a bikeway and public access the
18 length of the Sacramento River, and we are putting in the
19 first piece of that parkway in the Lighthouse Marina
20 project. And that was a requirement of the City of
21 West Sacramento to have that as well as the public access
22 that's included.

23 The general plan also identifies open space and
24 natural areas, including a terrific natural area called
25 Dea's Lake in West Sacramento, which is a wonderful habitat

1 for many of the species that we're concerned about these
2 days.

3 We -- the City of West Sacramento City Council
4 first considered the adoption of a memorandum of
5 understanding provided by the State Lands Commission back
6 in October. We did have some concerns, and the Director
7 of the Commission staff, Mr. Warren, did provide us with
8 a letter of clarification, which we provided to the City
9 Council at that time.

10 The City Council accepted that and directed us
11 at that time to go back and revise the MOU to reflect
12 many of the things and many of the concerns the city has
13 and include in the MOU those issues that were addressed
14 in Mr. Warren's letter.

15 And let me express that the staff has been very
16 cooperative, and we appreciate the cooperation and the
17 assistance that the staff has given us in that regard.

18 We have revised the MOU to meet the particular
19 needs and concerns that the city had with the MOU. And
20 specifically contained within the context or addressed within
21 the context of West Sacramento's particular position, as
22 you may be aware, the City of West Sacramento incorporated
23 just four years ago. Prior to that, it was -- the area
24 was under the jurisdiction of the Yolo County Board of
25 Supervisors. And for 100 years, it developed in the

1 manner in which it has, and we're attempting to address
2 many of the problems that occurred with regard to
3 unincorporated growth.

4 We have what we think is a terrific community,
5 and we'd like to continue to address those opportunities
6 that are provided by not only the location with respect
7 to Sacramento, but the location with respect to the
8 Sacramento River.

9 The City Council did adopt on December 19th
10 the revised memorandum of understanding, which I provided
11 to you today, along with a letter and a resolution by the
12 Council, and a letter by the West Sacramento Mayor.

13 The Sacramento River contains many areas.
14 Some of those areas are natural and environmentally
15 sensitive areas. Some of those areas are industrial
16 areas which have been developed and began developing in
17 the early -- just after the turn of the century. And our
18 interest is in redeveloping those areas and making those
19 areas something that not only West Sacramento citizens can
20 be proud of, but we can attract and have members of the
21 public from all parts of the State join us in celebrating
22 the river and enjoying the opportunities that that river
23 provides all of us.

24 Our concern specifically is in providing a
25 balance between the natural habitat areas and the areas

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1 in which the citizens and members -- and other members of
2 the community can enjoy the river, and enjoy not only
3 looking at the river, but enjoy dangling their feet in it
4 if the mood strikes them.

5 Thank you very much. I will answer any questions
6 that the Commission does have.

7 CHAIRMAN MC CARTHY: Thank you. Why don't we
8 hear from you, Mr. Wexler, and then we may have some
9 questions.

10 MR. WEXLER: Yes. Thank you very much,
11 Commissioners, for the opportunity to be here.

12 I'm Howard Wexler of the law firm of Feldman,
13 Waldman, and Kline in San Francisco, representing McCuen
14 Properties, who own property in West Sacramento. And on
15 behalf of the owners of the property, I want to express
16 their support for the concept of the riparian parkway
17 plan and also their support of the revised MOU that has
18 been adopted by the City of West Sacramento.

19 If I could just take a moment or two to point
20 out one or two things so that you may be able to follow,
21 because as Mr. Toppenberg said, most of the revisions
22 provided by West Sacramento are really elaborations and
23 followup on the clarification letter that Mr. Warren was
24 good enough to send to Mr. Toppenberg, dated October 10th,
25 which I believe is in your packet.

1 For example, if you look at paragraph 6 of the
2 MOU, it says that during the preparation of the plan,
3 each agency shall take no action which is detrimental to
4 the proposed parkway or provisions or intent of this
5 agreement.

6 That could be interpreted by some to be a
7 moratorium that nothing could be done during the time
8 when the plan is being prepared, because it might be
9 viewed as detrimental to where the plan is going to come
10 out.

11 Mr. Warren was good enough to provide in his
12 letter of October 10th in the last paragraph on the first
13 page, where he says about the concerns that no action
14 which is detrimental to the provision of the parkway,
15 "This provision is not intended to preclude the City of
16 West Sacramento from proceeding with the redevelopment
17 of its waterfront."

18 The provision that West Sacramento has proposed
19 to put in paragraph 6 is that this provision is not intended
20 to preclude any local jurisdiction from proceeding with
21 any planning or implementation of any development within
22 the Sacramento River riparian corridor during the
23 preparation of the plan.

24 Again, clarification of what has already been
25 clarified in the letter. But I have to say, as a lawyer,

1 when parties sign an agreement, a letter from the
2 Executive Director, which I know is an honest
3 interpretation on his part, may not be found by a
4 court to be legally binding, and the interpretation that
5 language itself provides could serve as a moratorium.

6 Another example is the first part of
7 Mr. Warren's letter, where he recognizes that it's not the
8 intention of the corridor to have everything within it be
9 restored to its natural state.

10 His last sentence says, "Indeed, it is
11 recognized that urban and recreational development in
12 certain areas of the waterfront may be appropriate and
13 desirable."

14 The City of West Sacramento has added at the end
15 of paragraph 3 of the MOU a third objective, which is to
16 identify areas of the Sacramento River which are
17 appropriate for urban development and the standards for
18 such development. Again, very much in keeping, I believe,
19 with what is in the letter.

20 The agreement -- just one last example, because
21 I don't think it's worthwhile to go through each one, but
22 one last example is that the agreement could be read as
23 something giving the powers to the Park Directors from the
24 counties to sign -- the signatories to this, that their
25 action, without ratification by their local governmental

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1 agencies -- either their Board of Supervisors or their
2 City Council -- could put the plan into binding effect.

3 Again, Mr. Warren clarifies on page 2 of his
4 letter that that's not the intent, and paragraph 8 in the
5 proposed revision would make that clear.

6 So, I think that most of these things could be--
7 that West Sacramento wants I don't think there's
8 any real conflict on. And whether it's to send a revised
9 one back or to have amendments considered, I would hope
10 that a solution could be found that brings everybody
11 together behind the same set of documents, and that really
12 carries out, I think, what is everyone's intent.

13 Thank you very much.

14 CHAIRMAN MC CARTHY: Mr. Warren, you want to
15 make any comments?

16 EXECUTIVE OFFICER WARREN: Reference was made
17 to my letter of October 10th, a copy of which is in your
18 packet. The letter represents the product of discussions
19 between State Lands Commission staff and representatives of
20 the City of West Sacramento.

21 In fact, I think candor would reveal that most
22 of the letter was drafted by representatives of the City
23 of West Sacramento.

24 MR. TOPPENBERG: Yes.

25 EXECUTIVE OFFICER WARREN: Yes. The letter,

1 before it was signed by me, was taken to the other
2 signatories of the MOU to make sure that it was
3 acceptable to them; that this reflected their understanding
4 of the MOU as it did mine.

5 They all agreed that it did. And they approved
6 my sending the letter of clarification to the City of
7 West Sacramento.

8 It was also represented that this letter would
9 be submitted to you when your approval of the MOU was
10 sought, it being understood on the record and
11 officially that the letter interpreting the MOU would be a
12 part of your approval.

13 The other signatories of the MOU understood
14 that, we understood that, and we communicated that
15 intention to the City of West Sacramento.

16 Despite that representation, despite the fact
17 that we said this would be on the record as the --
18 expressing the intention of the Commission as to the
19 meaning of the language of the MOU, this was still not
20 acceptable.

21 As I say, for reasons which are not clear to me,
22 and they're still not clear to me after the presentation
23 by the counsel for the developer, McCuen, it was -- the City
24 of West Sacramento has seen fit to change the MOU itself
25 in ways other than set forth in my letter. There are very

1 subtle and very significant differences between their
2 amendments to the MOU and to the intentions as set forth
3 in my letter.

4 They had previously communicated to us their
5 proposed amendments to the MOU. Whereupon, State Lands
6 Commission staff took the proposed amendments drafted by
7 West Sacramento to the other signatories -- the two
8 counties and the City of Sacramento. All refused to
9 accept the amendments.

10 Whereupon, we decided that the best thing to
11 do was to proceed without West Sacramento officially.
12 We did not see the need -- if West Sacramento was still
13 suspicious of our intention, then they could go their own
14 way in terms of their own planning for their own
15 community and for the river.

16 We welcomed and invited their continued
17 participation in all the Technical and Planning Committee
18 activities, and they, in fact, have participated at every
19 meeting. They have been fully involved.

20 They, for some reason, unlike the other
21 jurisdictions, are still suspicious of what's going to
22 happen. We hope that the time will come when those
23 suspicions will be removed, and they can formally adopt
24 the MOU.

25 But whatever, whether they formally adopt it or

1 not, they can continue to participate. They're most
2 welcome. They can still take -- if they want to feel free
3 to go ahead and do whatever they want, they can. So,
4 we're not asking them to do anything right now, except
5 to bear with us and when they're comfortable, to come along
6 and sign the MOU as the other governments have, and
7 as that MOU has been construed in the letter which -- as
8 I set forth in my letter of October 10th.

9 If the amendments were accepted by us, they
10 could well be rejected by the other governments as they have
11 already. I don't see any way to proceed but to go ahead
12 with the MOU. The other governments have indicated their
13 unanimous approval. I hope we will have the unanimous
14 approval of this Commission to go ahead.

15 And at any time in the process, if the City of
16 West Sacramento feels comfortable, then they can so
17 indicate by approving the MOU.

18 If their -- you know, I see to them no harm.
19 We are causing them no harm. We would like to have them
20 with us.

21 CHAIRMAN MC CARTHY: They can go forward with any
22 developments --

23 EXECUTIVE OFFICER WARREN: They can go forward
24 with whatever they want. Mr. McCuen can go ahead with his
25 building proposal or whatever it is he has in mind for

1 West Sacramento. The City can go ahead.

2 COMMISSIONER DAVIS: Is it possible that at a
3 future point, maybe a different set of amendments or
4 revisions to the MOU would be acceptable not only to us,
5 but to the other signatories to that? I guess what I'm
6 trying to figure out in my own mind is whether our adopting
7 this MOU today precludes, as a practical matter, West
8 Sacramento ever coming on board in any way other than
9 just accepting our MOU as written?

10 EXECUTIVE OFFICER WARREN: No, it would not.
11 No. You know, once we get this officially launched,
12 you know, if West Sacramento has some suggestions to make
13 it any -- or any signatory has some suggestions to make
14 as to the amendment -- as to amending the MOU, they would
15 be welcome.

16 In point of fact, any signatory to the MOU can
17 withdraw at any time they want. The MOU, if it was to be
18 examined, is very loosely drawn. It imposes no real
19 obligations on anybody. It calls for the joint preparation
20 of a plan. Now, what the ultimate decision will be, once
21 that plan is prepared, what happens? Well, it's going to
22 have to be approved by each of the signatories.

23 If it's not approved by the signatories, you're
24 not going to have a parkway. And then the decision's going
25 to have to be made by the signatories who's going to run

1 this park? I would assume that there will be some formal
2 authority established for the management of this multi-
3 jurisdictional parkway. I don't know what the answer is to
4 that. You know, the cities and the counties will have to
5 work that out.

6 It would be my present feeling that the State
7 Lands Commission's role at that time would be minimal.
8 And limited only to the extent that we would make sure
9 that no use of our lands was made contrary to the public
10 trust, which we have -- of course, for which we have
11 responsibility.

12 But other than that, you see, I really can't
13 quite understand what it is that troubles them. They say
14 that the only thing -- they say that their amendments are
15 only clarifying or expressing the intentions set forth in
16 my letter, the letter that I sent to them, which was
17 drafted by them.

18 But they should be assured by our assurance that
19 this letter is part of the MOU itself, and that that is
20 acceptable to all the other signatories. I'm truly
21 confused. I don't know what is going on.

22 CHAIRMAN MC CARTHY: Mr. Wexler, you said the
23 court would interpret this differently. Tell us what you
24 meant. Do you think that on the specific three points that
25 you raised, you referenced in Mr. Warren's October 10th

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1 letter, that the memorandum of understanding is going to
2 legally bind the City of West Sacramento in some way that
3 precludes your development? I take it that's your
4 appropriate interest. Is that the point you're trying to
5 make? Are you subject now to some legal constraints because
6 of the -- you just heard Mr. Warren say that signatories
7 could withdraw from this memorandum of understanding at
8 any time they want.

9 This is not the point where I think you're
10 facing legal constraints. That would come down the line
11 if the local jurisdictions agree to collective action.

12 MR. WEXLER: I think it's -- in terms of
13 withdrawing at any point, that is not within the MOU as
14 it's now written. One of the proposed changes that
15 West Sacramento put in at the end of paragraph 7 is to put
16 in the specific provision that parties can withdraw at
17 any time, because that isn't clear.

18 The provision that I was speaking to was in
19 paragraph 6, that assuming that a jurisdiction has signed
20 this agreement, as I read paragraph 6, it says during the
21 preparation of the plan, each agency -- and then it goes
22 on to say, shall take no action which is detrimental to the
23 proposed parkway or the provisions or the intent of this
24 agreement.

25 Now, if a court were to say that this letter is

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1 in fact a part and incorporated in, even though it hasn't
2 been approved by any -- officially approved by any of
3 the local jurisdictions, then that wouldn't be a problem.

4 But if they look at it and say, what you have
5 here is an agreement that says no action shall be taken
6 that could negatively impact on this, and the letter is an
7 interpretation by an executive of the staff, then they
8 could come to a very different result.

9 And that's why the -- the whole purpose, I think,
10 of West Sacramento's amendments are to clarify and put
11 into the MOU -- and if there are things in here that
12 create a problem, then it seems to me the way to deal
13 with that is to sit down, and I would assume those could
14 be worked out by City of West Sacramento and State Lands.

15 Because, as I look at it as an outsider --

16 CHAIRMAN MC CARTHY: There is no question in
17 your mind that as long as the City of West Sacramento is
18 not a signatory to this, your proposed development is not
19 in jeopardy in any way?

20 MR. WEXLER: That's correct.

21 CHAIRMAN MC CARTHY: Okay.

22 MR. WEXLER: But my client's purpose is not to
23 keep people out of that. We would like to see it
24 participate.

25 CHAIRMAN MC CARTHY: These discussions have been

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1 going on for a fair amount of time with all local
2 jurisdictions participating. We have three jurisdictions
3 now that have unanimously endorsed this, including the
4 Yolo County Board of Supervisors. So, the City of
5 West Sacramento is free to make its own public policy
6 judgment in this regard. We have three jurisdictions,
7 plus a number of other agencies, suggesting they want to go
8 forward at this time with this.

9 MR. WEXLER: And I'm certainly not suggesting
10 to you -- that's why I didn't put myself down in
11 opposition -- that this not go forward. I was just
12 hoping to find that there might be some way found to take
13 the desires of the City of West Sacramento, as they've
14 adopted it, and coalesce those so that everybody could
15 be on the same page.

16 CHAIRMAN MC CARTHY: I think the sense I get out
17 of this discussion, if I may sum it up, is that while
18 there isn't anything really constraining about the
19 memorandum of understanding, it's trying to set a tone of
20 collective cooperation which will lead to a legally
21 binding judgment in the future. And if you open up with
22 a wishy-washy articles of confederation, which is nothing
23 more than prefatory language, and doesn't send a message
24 of clear, strong purpose coming from all the jurisdictions,
25 you're not ultimately going to end up with a mutually

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TELEPHONE 916 362-2347

1 agreeable collective constraint. That's my sense of
2 what's happening here.

3 So, in fact, the City of West Sacramento is
4 really totally free to go its own way and need not be a
5 part of that collective action ultimately. But after a
6 series of discussions now, it stands alone in that position,
7 which is its right.

8 I don't think the Commission, after hearing all
9 of this, is interested in delaying action on this
10 memorandum of understanding. However, I would state that
11 we are very open to continuing discussions with the City
12 of West Sacramento and ultimately very much want the City
13 of West Sacramento as part of whatever agreement will be
14 reached to create this parkway.

15 We think it's damaged by the lack of
16 participation from the City of West Sacramento, but we
17 respect the wishes of the community leaders.

18 MR. TOPPENBERG: Mr. McCarthy, if I may, again,
19 I may state -- must state that the City of West Sacramento
20 is very much interested in participating in a formal
21 manner, and also is very much interested in executing a
22 memorandum of understanding. Our concern is that some
23 third party litigant comes in and sues and holds up this
24 MOU and says, I'm sorry. You guys can't do planning on
25 your waterfront, and that is a real concern. And you know,

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1 I would be happy to show you what we're facing in
2 West Sacramento at any time it's convenient. We are, again,
3 very concerned about participating. We want to
4 participate. We want to be a partner of this. We want
5 to sign an MOU. We want to sign an MOU that respects
6 both of our interests.

7 CHAIRMAN MC CARTHY: Well, if you're sued,
8 perhaps we can send Mr. Warren over to testify as to the
9 points raised at this hearing.

10 EXECUTIVE OFFICER WARREN: We are asking that the
11 MOU, as interpreted by the letter, be approved. The
12 letter was a part of the MOU. I'd like that understood.

13 CHAIRMAN MC CARTHY: Do you have anything
14 further you'd like to add?

15 MR. TOPPENBERG: No. Thank you.

16 MR. DAVIS: I just want to make a comment.
17 I'm very impressed with the consensus that's been
18 achieved between three jurisdictions and the State Lands
19 Commission. I believe it's our obligation, as servants
20 of the public, to proceed and forge ahead. And West
21 Sacramento is welcome to join at any time and may well,
22 in fact, come up with an idea that improves upon this MOU.

23 As the Chairman pointed out, whatever clarity
24 this MOU provides to what I call a permit gauntlet must
25 subsequently be validated by individual jurisdictions.

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1 So, it's not at that point would any legal obligation
2 obtain to your particular jurisdiction. As to your client,
3 Mr. Wexler, I've always believed that someone serves their
4 own self interest by operating in the public interest.

5 And I'd strongly suggest that he or they grant
6 the kinds of access and provide the kinds of
7 recreational opportunities on their own initiative,
8 whatever West Sacramento does, because I think you'll find
9 the best endorsement for their next project is the
10 attractiveness of their last project.

11 So, as they say in Hollywood, you're as good as
12 your last movie. So whatever West Sacramento does, I
13 would advise you, if your client is so inclined, to
14 structure his development in a way that reflects the spirit
15 of this MOU.

16 MR. WEXLER: Thank you, Mr. Davis. My client
17 is very interested in providing public access along the
18 waterway where he has -- owns property there, and very much
19 shares your view.

20 EXECUTIVE OFFICER WARREN: If I could impose just
21 for one minute, Mr. Chairman and members, I met with -- I
22 have met with Mr. McCuen. I thought we had a very cordial
23 meeting frankly. I was very excited about the opportunity
24 of working with an urban developer in West Sacramento to
25 involve this concept into urban planning.

1 And my impression from that meeting, frankly,
2 was one of enthusiasm on both sides. So that's why I
3 continue to be puzzled.

4 I only bring this to your attention today, so
5 in the presence of Mr. McCuen's lawyer, we would welcome
6 further opportunities to explore with Mr. McCuen his plans
7 for the river to see to what extent we could facilitate,
8 if not accommodate, his interests.

9 CHAIRMAN MC CARTHY: Thank you. Anybody else
10 in this audience wish to testify on Item No. 3?

11 The matter's before the Commission. Motion
12 by Commissioner Davis. Seconded by Commissioner Dwight.
13 Unanimously adopted.

14 Item No. 4.

15 EXECUTIVE OFFICER WARREN: Finally, Mr.
16 Chairman, Item No. -- well, it's not finally.

17 CHAIRMAN MC CARTHY: Oh, it's Item No. 5.

18 EXECUTIVE OFFICER WARREN: Well, to use that
19 expression, we're not on the same page. Item 4 is next.
20 We have one more item after 4.

21 Item No. 4 --

22 CHAIRMAN MC CARTHY: We authorize you to
23 execute the memorandum of understanding. Now we're on
24 Item No. 4.

25 EXECUTIVE OFFICER WARREN: All right. This is

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SACRAMENTO, CA 95811
TELEPHONE 444-8224

1 another memorandum of understanding between the State
2 Lands Commission and the United States Coast Guard
3 formalizing the relationship between the two agencies
4 concerning the Marine Terminal and Platform Inspection
5 Program.

6 I think this again is a unique agreement of a
7 State agency -- involving a State agency and a Federal
8 agency. It's largely a result of Chairman Davis'
9 meetings with the Coast Guard. We think it's one of
10 communication, coordination, and joint inspection. We're
11 eliminating redundancy. We're -- in other words, it
12 establishes a nice working relationship between the State
13 Lands Commission and the U.S. Coast Guard on a formal
14 basis.

15 And we request -- I would like to say this has
16 not been -- Admiral Gilbert -- this has been staffed by
17 everybody in the Ninth Command. Admiral Gilbert himself
18 has not signed it. So, today, we're only asking you for
19 authority for the Executive Officer to enter into this or
20 some substantially similar MOU, depending on Admiral
21 Gilbert's --

22 CHAIRMAN MC CARTHY: Any questions from
23 members of the Commission?

24 COMMISSIONER DWIGHT: I'd like to put on the
25 record a discussion that we had about this yesterday

1 so there won't be any confusion in the future. If I could
2 summarize that, perhaps Mr. Warren can agree with it,
3 and that is that the discussion was to the effect that
4 there's nothing in this MOU that would prohibit any
5 other appropriate State agency to enter into an MOU
6 similar to this one that would affect its responsibilities
7 in this general area of State institutions.

8 EXECUTIVE OFFICER WARREN: That's correct. And
9 we would -- in fact, we commend such an effort, and would
10 assist any other State agency into entering into any such
11 arrangement.

12 CHAIRMAN MC CARTHY: With that, unanimously
13 authorized.

14 5 was taken off calendar.

15 EXECUTIVE OFFICER WARRENT: I'd like to formally
16 request that this item be removed from calendar and to
17 point out the significance of that. The significance of
18 staff's request is that it thereby signals the withdrawal
19 of any effort to appeal the decision of BLM denying to
20 State Lands the indemnity selection process for the subject
21 properties.

22 This action will result in the abandonment of
23 any appeal by us of that BLM determination. However, it
24 keeps open the negotiations with the Viceroy Mining Company
25 concerning its desire to have access to our school lands and

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TELEPHONE 916-481-2141

1 to wells which get inadvertently dug on those lands.

2 We have received a letter today, this morning,
3 from Viceroy Mining Company indicating its desire to
4 negotiate a lease with us for those -- for that water
5 resource.

6 CHAIRMAN MC CARTHY: Any questions?

7 COMMISSIONER DAVIS: Is there any opposition,
8 either written or oral, to the Commission about the
9 proposed staff action here, or the proposed recommendation?

10 EXECUTIVE OFFICER WARREN: No.

11 CHAIRMAN MC CARTHY: Okay.

12 EXECUTIVE OFFICER WARREN: That concludes the
13 agenda, Mr. Chairman and members.

14 CHAIRMAN MC CARTHY: Thank you, ladies and
15 gentlemen. That concludes the Commission meeting.

16 (Thereupon, the meeting was adjourned
17 at 4:00 p.m.)

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PETERS SHORTHAND REPORTING CORPORATION

3316 BRADSHAW ROAD SUITE 204
SACRAMENTO, CALIFORNIA 95817
TELEPHONE 916 341-2344

CERTIFICATE OF SHORTHAND REPORTER

--o0o--

I, Nadine J. Parks, do hereby certify that I am a disinterested person herein; that I reported the foregoing proceedings in shorthand writing, and thereafter caused my shorthand writing to be transcribed into typewriting.

I further certify that I am not of counsel or attorney to any of the parties of said meeting, nor am I interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of January, 1991.

Nadine J. Parks
Shorthand Reporter

PETERS SHORTHAND REPORTING CORPORATION

3006 BRADSHAW ROAD SUITE 240
SACRAMENTO, CALIFORNIA 95827
TELEPHONE (916) 467-2141